

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

HEATH HOLCOMB,)
)
)
Plaintiff,)
)
)
v.)
)
CITY OF ALPHARETTA and)
JOHN ROBISON,)
)
Defendants.)

**Civil Action
No. _____**

NOTICE OF REMOVAL

COME NOW the City of Alpharetta and John Robison, the defendants herein, and, pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, hereby remove the above-styled civil action from the Superior Court of Fulton County, Georgia to the United States District Court for the Northern District of Georgia, Atlanta Division, based on the following grounds:

1.

Plaintiff Health Holcomb filed this action on June 6, 2023 in the Superior Court of Fulton County, where it was assigned civil action number 2023CV381264. A copy of the complaint is attached as Exhibit A, and all process, other pleadings, and orders served upon defendants are attached as Exhibit B.

2.

The affidavits of service included within Exhibit B show the City was served with process on June 12, 2023, and Chief Robison on June 20, 2023. This notice of removal thus is timely filed within 30 days of defendants' receipt of plaintiff's complaint. *See* 28 U.S.C. § 1446(b)(1)-(2)(B).

3.

In his complaint, plaintiff asserts federal causes of action pursuant to Title VII of the Civil Rights Act of 1964 (Compl., ¶¶ 13-23) and pursuant to 42 U.S.C. § 1983 for alleged violations of his right to free speech under the First Amendment to the U.S. Constitution, alleged violations of his right to due process under the Fourteenth Amendment, and an alleged violation of the Fourth Amendment. (Compl., ¶¶ 24-44.) This action thus is a civil action over which the United States District Court has original jurisdiction pursuant to 28 U.S.C. § 1331 because it is an action "arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331.

4.

This civil action thus is removable pursuant to 28 U.S.C. § 1441 because the United States District Court has original jurisdiction over this case by reason of federal-question jurisdiction pursuant to 28 U.S.C. § 1331. This Court further has supplemental jurisdiction over plaintiff's state law claim arising under O.C.G.A.

§ 51-12-5.1 because it arises out of the same allegations as plaintiff's federal claim and forms part of the same case or controversy. *See* 28 U.S.C. § 1337(a).

5.

Pursuant to 28 U.S.C. § 90(a)(2), the United States District Court for the Northern District of Georgia, Atlanta Division, is the district court having jurisdiction over Fulton County, Georgia, where the superior court action was pending. Pursuant to 28 U.S.C. §§ 1441, 1446(a), defendants thus are entitled to remove this action from the Superior Court of Fulton County to this Court.

6.

Contemporaneously with the filing of this Notice of Removal with this Court, defendants are filing a copy of this notice of removal with the Clerk of the Superior Court of Fulton County, with service on plaintiff's counsel, as required by 28 U.S.C. § 1446(d).

7.

WHEREFORE, this Court now has jurisdiction over this action.

[Signature on next page]

Respectfully submitted,

FREEMAN MATHIS & GARY, LLP

/s/ Michael M. Hill

Michael M. Hill
Georgia Bar No. 770486
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Counsel for Defendants

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CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1(D), I hereby certify that the within and foregoing **NOTICE OF REMOVAL** has been prepared in compliance with Local Rule 5.1(B) in 14-point Times New Roman type face.

This 5th day of July, 2023.

/s/ Michael M. Hill

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Counsel for Defendants

CERTIFICATE OF SERVICE

I certify that on this day I served a copy of the within and foregoing **NOTICE OF REMOVAL** by depositing a true and correct copy thereof in the United States mail, postage prepared, properly addressed upon:

Jordan Johnson
Bernard & Johnson, LLC
5 Dunwoody Park
Suite 100
Atlanta, Georgia 30338

This 5th day of July, 2023.

/s/ Michael M. Hill

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